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BEFORE THE ARIZONA CORPORATION COMMISSION**KRISTIN K. MAYES
CHAIR**

2009 JAN 30 P 4: 25

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COMMISSIONER**ARIZONA CORPORATION COMMISSION
DOCKET CONTROL**SANDRA KENNEDY
COMMISSIONER****PAUL NEWMAN
COMMISSIONER****BOB STUMP
COMMISSIONER**

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**IN THE MATTER OF THE GENERIC
PROCEEDING CONCERNING
ELECTRIC RESTRUCTURING ISSUES****Docket No. E-00000A-02-0051.****Comments from the Arizona Competitive
Power Alliance****COMMENTS OF THE ARIZONA COMPETITIVE POWER ALLIANCE**

It's déjà vu all over again. In 1995, I was appointed as Director of the Residential Consumer Utility Office in order to represent interests of residential consumers before the Arizona Corporation Commission. Renz Jennings Chaired the Commission and with the help of Marcia Weeks formed a working majority. Carl Kunasek had just been elected and would eventually go on to Chair the Commission himself.

My first assignment as RUCO Director was provide comments for a Retail Electric Competition pilot project that had been proposed by Chairman Jennings with the backing of the ACC. At the time, no one could quite imagine what would happen if consumers were allowed to

1 chose their electric providers. What were the potential risks and benefits? What about stranded
2 costs, provider of last resort and costs of competition? What rules would need to be changed?
3 Meanwhile, incumbent utilities paraded a vague list horrors from "stranded investment" to
4 "cherry picking," while the ACC wrestled with ultimate question, "is competition in the public
5 interest?"
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7 I've long since left RUCO, my five-year tenure was a record at the time, but I was
8 followed by a Director who served a bit longer than I did and he was followed by a Director who
9 currently holds the record of six years. Meanwhile, Renz Jennings, Marcia Weeks and Carl
10 Kunasek are long gone. While Tony West, Jim Irvin, Marc Spitzer, Bill Mundell, Jeff Hatch-
11 Miller and Mike Gleason have come and gone. Dozens of states have moved well past pilot
12 projects and have implemented full-blown competition. Arizona--once in the vanguard and
13 worried about the dangers of being a first mover--has now lost any lead it once enjoyed in
14 providing its consumers with a choice of electric providers.
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16 While Arizona has made little progress on implementing Retail Electric Competition, it
17 was not for lack of effort. I spent nearly a year--and well over \$100,000 in consulting fees--on
18 that first pilot project. On the day after Christmas in 1996, the ACC adopted interim Electric
19 Competitions Rules. Two years (and one critical election) later, the ACC made those rules
20 permanent. That meeting was held December 11th of 1998, and exactly 20 days later (in what is
21 perhaps the most bizarre ACC open meeting ever held) the ACC denied the motion to rehear the
22 rules late on New Year's Eve of 1998. Meanwhile, in preparation for competition, APS signed a
23 rate-reduction settlement in 1996 as well as 1999. TEP and SRP signed competition settlements
24 in 1999 as well. APS sought a "variance" from the rules in 2001 which led to a letter from
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1 Commissioner Mundell in which he raised a series of issues that needed to be addressed for
2 competition to continue. Hearing Officer Farmer divided those issues into two categories--
3 threshold issues and implementation issues—then labeled the first set “Track A” and the second
4 set “Track B”. Parties litigated those issues for several years and the ultimate decision—which
5 led to a savings of nearly \$150 million—was folded into the 2005 APS Settlement. The retail
6 electric competition issues that remained after Track A and Track B were ultimately rolled into
7 the Electric Competition Advisory Group (ECAG) which had several robust meetings, followed
8 by intermittent meetings and then eventually by quarterly announcements that meetings were no
9 longer being held, followed by an ACC ruling that that quarterly announcements were no longer
10 necessary.
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12 Meanwhile Sempra Energy Solutions, as well as other potential competitors—major
13 companies with millions of customers—have spent nearly three years and untold millions of
14 dollars fighting for the right to serve Arizona customers. Those cases have served as a vehicle for
15 the ACC to establish yet another series of workshops and round of comments. Last November,
16 parties to this latest iteration met to discuss the benefits of Retail Electric Competition and the
17 utilities unpacked the same parade of horrors—stranded investment, provider of last resort,
18 cherry picking—that they had first raised during the Symington administration. Now the
19 long-suffering ACC staff has to endure yet another round of comments in which parties are asked
20 to discuss whether competition is in the public interest. The answer is, of course, “yes” and
21 Alliance members Sempra Energy Solutions, Direct Energy, Constellation and Shell Energy
22 North America have filed a 41 page (plus appendices) response in which they make clear that
23 competition is effective and vibrant in other venues and is indeed in the public interest.
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1 Additionally, Vicki Sandler, Director of the Arizona Independent Scheduling Administrator, has
2 filed comments in which she assures the Commission that the AISA stands ready to ensure fair
3 and non-discriminatory access to Arizona's transmission grid. Customer groups such as
4 Arizonans for Electric Choice and Competition—which has participated in every Rule Making,
5 Settlement Agreement, Competition Workshop, 252 hearing, rate case and request for comments
6 since 1997—stand ready to provide the customer base needed to ensure that competition is
7 successful. The only thing left is for the Commission to make the final decision.
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9 There have been an endless series of comments, however, there is one question that has
10 not been asked in the nearly 15 years since Renz Jennings first suggested a Retail Electric
11 Competition pilot project. What are the costs of delay? I'm not talking about the thousands of
12 hours, millions of dollars and years of effort that have been spent by the participants. I'm talking
13 about the consumers who have groaned under monopoly service for the last 15 years. School
14 districts, small businesses, large industrial consumers, farms, stores, warehouses—and yes,
15 residents--have been denied the opportunity to elect the supplier of their choice. Consumers who
16 want to buy green power have been denied access to companies that want to provide it. Not only
17 has choice been eliminated, but innovation has been stifled; savings have been lost; opportunities
18 have been forgone and time has been wasted.
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20 To be sure, our lives have moved on. My daughter—born during the discussions of the
21 pilot program—is in high school now. It's time to let consumers move on. It's time to let them
22 have the same benefits that are taken for granted in other industries, other states and indeed other
23 countries. Time and the experience in other states have long answered the questions that Arizona
24 has been asking for more than a decade. Yes. Providing retail electric choice to consumers is in
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1 their interest. It's time to move forward and give Arizona residents and businesses the choice that
2 they deserve.

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5 Dated this 29th day of January 2009.

6 Respectfully submitted,

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9 Greg Patterson
10 Director
11 Arizona Competitive Power Alliance.
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